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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/652,095 | 08/31/2000 | Robert T. Baum | BELL-30 | 2848 |

32127 7590 03/10/2004

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| EXAMINER |
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WAHBA, ANDREW W

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| ART UNIT | PAPER NUMBER |
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2661

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DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/652,095

Applicant(s)

BAUM ET AL.

Examiner

Andrew W Wahba

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4 and 16 is/are allowed.
- 6) ☒ Claim(s) 5-15, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 5-15 and 17-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 5-15 and 17-18 are directed to nonfunctional descriptive material on a computer readable medium, i.e., a data packet with different fields stored on a storage means. The data packet does not perform any physical acts to achieve a practical application.

Allowable Subject Matter

3. Claims 1-4, 16 allowed. The following is an examiner's statement of reasons for allowance: With respect to independent claim 1, the prior art does not teach or fairly suggest the determining of a new layer 3 destination address based on a portion of a layer 3 destination address of the VPN packet and encapsulating the VPN packet with a layer 3 source address, the determined layer 3 address and layer 2 source and destination addresses.

With respect to independent claim 4, the prior art does not teach or fairly suggest the determination of a new destination layer 2 address based on at least a portion of the preserved layer 3 destination address and at least a portion of the layer 2 address.

With respect to independent claim 16, the prior art does not teach or fairly suggest a table including a layer 3 destination address of a VPN packet, a means for

determining a new layer 3 destination address based on the contents of the table, and encapsulating the VPN packet with the new layer 3 destination address.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tzeng discloses a network switch for performing layer 2 and layer 3 switching. Port filters identify layer 3 information in an incoming data packet and layer 3 processing is performed. The switch also contains layer 2 switch logic in which layer 2 switching decisions are based on a MAC address, destination MAC address and VLAN information (column 5, lines 27-41).

Chang et al discloses an apparatus for connecting LANs. In the disclosure a broadcast/rout server performs several functions including the recognizing of a packet broadcast at layer 2 that contains layer 3 address resolution requests. The server proceeds to obtain the requested address and transmits the translated address to the node from which the packet originated (column 6, lines 33-39).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew W Wahba whose telephone number is (703) 305-4684. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W Olms can be reached on (703) 305-4703. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew Wahba

AW

March 4, 2004

Chau T. Nguyen

CHAU NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600